



PROPOSED RULE MAKING

CR-102 (June 2004)

(Implements RCW 34.05.320)

Do NOT use for expedited rule making

Agency: Department of Agriculture

- ☒ Preproposal Statement of Inquiry was filed as WSR 06-07-169; or
☐ Expedited Rule Making--Proposed notice was filed as WSR _____; or
☐ Proposal is exempt under RCW 34.05.310(4).

- ☒ Original Notice
☐ Supplemental Notice to WSR _____
☐ Continuance of WSR _____

Title of rule and other identifying information: (Describe Subject) Chapter 16-401 WAC - Nursery Inspection Fees. This proposal increases the nursery inspection fees and the permit fee for businesses exempted from a nursery dealer's license by not more than the OFM fiscal growth factor for fiscal year 2007 (3.38%).

Hearing location(s):

Washington State Dept. of Agriculture
1111 Washington Street SE
Natural Resource Building - 2nd Floor
Conference Room 205
Olympia, WA 98504-2560

Date: June 27, 2006 Time: 2:00 PM**Submit written comments to:**

Name: Henri Gonzales
Address: PO Box 42560, Olympia, WA 98504-2560

e-mail hgonzaless@agr.wa.gov
fax (360) 902-2094 by June 27, 2006

Assistance for persons with disabilities: ContactHenri Gonzales by June 20, 2006

TTY (360) 902-2061 or () _____

Date of intended adoption: July 11, 2006

(Note: This is NOT the effective date)

Purpose of the proposal and its anticipated effects, including any changes in existing rules: This rule establishes the fees charged by the Plant Services Program for activities authorized in chapters 15.13 or 15.14 RCW. This proposal increases the nursery inspection fees and permit fee for businesses exempted from a nursery dealer's license by not more than 3.38%, which is the OFM fiscal growth factor for fiscal year 2007. Current fees are not adequate to cover the costs of providing these inspection services; therefore, the proposed increases are necessary to ensure that the program will remain financially solvent. RCW 15.13.260(4) and RCW 15.14.015(11) authorize the director of the Washington State Department of Agriculture to establish fees to cover the cost of providing inspection services.

Reasons supporting proposal: Current fee levels are not adequate to cover the costs of providing these inspection services. The Nursery Advisory Committee, which is appointed by the director of the Department of Agriculture to represent the interests of the nursery industry, supports the proposal.

Statutory authority for adoption: Chapters 15.13, 15.14 and 34.05 RCW**Statute being implemented:** Chapter 15.13 and 15.14 RCW**Is rule necessary because of a:**

Federal Law?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Federal Court Decision?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
State Court Decision?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

If yes, CITATION:

DATE

May 24, 2006

NAME (type or print)

Mary A. Martin Toohey

SIGNATURE**TITLE**

Assistant Director

CODE REVISER USE ONLY

CODE REVISER'S OFFICE
STATE OF WASHINGTON
FILED

MAY 24 2006

TIME

10:11

AM
PM

WSR

06-11-172

(COMPLETE REVERSE SIDE)

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:

None

Name of proponent: (person or organization) Washington State Dept. of Agriculture with the support of the Nursery Advisory Committee

☐ Private
☐ Public
☒ Governmental

Name of agency personnel responsible for:

Name	Office Location	Phone
Drafting.....Mary Toohey	1111 Washington Street SE, Olympia, WA 98504-2560	(360) 902-1907
Implementation...Tom Wessels	1111 Washington Street SE, Olympia, WA 98504-2560	(360) 902-1984
Enforcement.....Tom Wessels	1111 Washington Street SE, Olympia, WA 98504-2560	(360) 902-1984

Has a small business economic impact statement been prepared under chapter 19.85 RCW?

☐ Yes. Attach copy of small business economic impact statement.

A copy of the statement may be obtained by contacting:

Name:

Address:

phone () _____

fax () _____

e-mail _____

☒ No. Explain why no statement was prepared.

RCW 19.85.030(1)(a) requires that an agency must prepare a small business economic impact statement (SBEIS) for proposed rules that impose a more than minor cost on businesses in an industry. The department has analyzed the economic effects of the proposed fee increases, which are based upon the OFM fiscal growth rate factor for 2007, and has concluded that they do not impose a more than minor costs on the regulated industry and, therefore, a formal SBEIS is not required.

Is a cost-benefit analysis required under RCW 34.05.328?

☐ Yes A preliminary cost-benefit analysis may be obtained by contacting:

Name:

Address:

phone () _____

fax () _____

e-mail _____

☒ No: Please explain: The Washington State Department of Agriculture is not a listed agency under RCW 34.05.328(5)(a)(i).

AMENDATORY SECTION (Amending WSR 05-12-110, filed 5/31/05, effective 7/1/05)

WAC 16-401-027 Schedule of fees and charges--Applicable rates and charges. The following rates apply for requested inspection services:

(1) Fee or Charge:	
Hourly rate--business hours	\$((31.95)) <u>33.00</u>
Hourly rate--nonbusiness hours	\$((40.80)) <u>42.15</u>
Certificate issued at time of inspection	No charge
Certificate issued more than twenty-four hours after the inspection	\$((15.20)) <u>15.70</u>
Additional certificates	\$((4.80)) <u>4.95</u>
Fumigation lot or container fee	\$((12.70)) <u>13.10</u>
Certificate of plant health for noncommercial movement	\$((6.25)) <u>6.45</u>
Compliance agreement	\$((31.95)) <u>33.00</u>
Inspection tags or stickers (lots of 250)	\$((6.25)) <u>6.45 per lot</u>
Inspection tags or stickers (minimum 10)	\$0.28 each

(2) Mileage at the established office of financial management rate (schedule A), per diem at actual cost, and travel time at the applicable hourly rate may be assessed for requested inspections that are not a part of a regular work schedule. Such charge may be prorated among applicants if more than one applicant is provided service during a workday or trip when mileage and/or per diem are applicable.

(3) Inspections for phytosanitary certification, including growing season field inspections, are provided at the applicable hourly rate provided in subsection (1) of this section except where an alternate certification inspection fee is provided in statute, in rule, or by a written agreement between the department and an industry entity, university, or public agency. When growing season field inspections for phytosanitary certification and regulatory inspections are performed simultaneously, the first two hours of inspection each calendar year for nurseries licensed under WAC 16-401-041 (1)(b) or (2)(a); and the first four hours of inspection per calendar year for nurseries licensed under WAC 16-401-041 (1)(c) or (2)(b), are without charge.

There is no additional charge for the first phytosanitary

certificate issued at the time of the inspection.

(4) Inspection and certification of nonplant material or equipment for sanitation (freedom from soil or pests) by visual examination or through witnessing a prescribed treatment (steam cleaning, hydro-washing, etc.) is charged at the applicable hourly rate.

(5) Witnessing and certification of fumigation is charged at the applicable hourly rate, plus a per lot or container fee.

(6) The department may issue a certificate of plant health for noncommercial movement of plant materials between states by unlicensed persons, up to a maximum of five plants, and provided that the plants are brought to a plant services office for inspection.

Note: When two or more types of inspection, provided in this section, are performed simultaneously, only one hourly rate applies. One certificate for one service is issued at no charge.

AMENDATORY SECTION (Amending WSR 05-12-110, filed 5/31/05, effective 7/1/05)

WAC 16-401-041 Nursery dealer license fees. Annual license fees as established below, must accompany the application for nursery dealer license:

(1) Retail nursery dealer license fee:

(a) Gross business sales of horticultural plants and turf less than two thousand five hundred dollars \$38.73

(b) Gross business sales of horticultural plants and turf between two thousand five hundred dollars and fifteen thousand dollars, the license fee is \$82.99

(c) Gross business sales of horticultural plants and turf of fifteen thousand dollars or more \$166.00

(2) Wholesale nursery dealer license fee:

(a) Gross business sales of horticultural plants and turf less than fifteen thousand dollars \$82.99

(b) Gross business sales of horticultural plants and turf of fifteen thousand dollars or more \$166.00

(3) As provided in RCW 15.13.285, a surcharge of twenty percent of the base rate, in addition to the fees established on all classes of licenses in subsections (1) and (2) of this section, is established.

(4) Permit fee for those types of sales and organizations exempted from licensing requirements by RCW 15.13.270. . . \$((6-15))
6.35